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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,762	01/29/2002	Julia Lynne (Cutler) Ramsay	109846.998	5699

7590

06/26/2003

Hale and Dorr  
The Willard Office Building  
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Washington, DC 20004-1008

EXAMINER

CLARDY, S

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 06/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/937,762

Applicant(s)

Ramsay et al

Examiner

S. Mark Clardy

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan 29, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

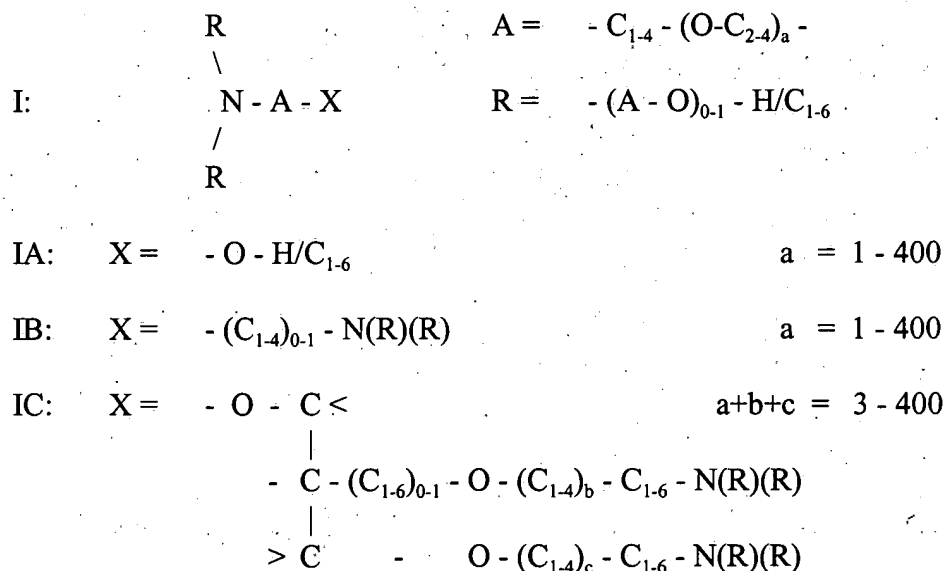
- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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Claims 1-18 are pending in this application which has been filed under 35 USC 371 as a national stage application of PCT/GB00/01062, filed March 21, 2000. This application possesses unity of invention under 37 CFR 1.475 (MPEP 1850, 1893.03(d)).

Applicants' claims are drawn to compositions and methods of use comprising:

1. An agrochemical active ingredient  
glyphosate, fomesafen, paraquat (claim 14)
2. An adjuvant of formula IA, IB, or IC, optionally with an alkylpolyglycoside surfactant

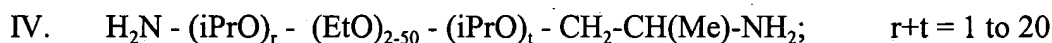


See specific polyalkoxylated mono/di/tri-amine structures II-V in claims 4, 6, 8, and 10. The exemplified adjuvants are identified in the specification as JEFFAMINE surfactants:

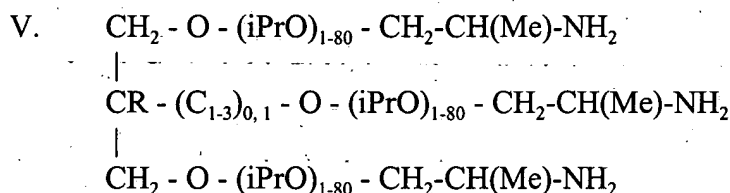
- II.  $\text{Me}-\text{O}-(\text{EtO})_{0-45}-(\text{iPrO})_{0-90}-\text{CH}_2-\text{CH}(\text{Me})-\text{NH}_2$   
JEFFAMINE M600, M1000, M2005, M2070
- III.  $\text{H}_2\text{N}-(\text{iPrO})_{1-80}-\text{CH}_2-\text{CH}(\text{Me})-\text{NH}_2$

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## JEFFAMINE D230, D400, D2000



## JEFFAMINE ED600, ED900, ED2003



## JEFFAMINE T403, T3000, T5000

There appears to be a mismatch between the pending claims in the application as filed, and applicants' copy of the claims; claim 2 as filed is a short claim which seems to correspond to (but is not identical with) applicants' claim 3 in the Preliminary Amendment filed January 29, 2002. Claim 2 in the preliminary amendment appears to have been inserted in the claims during the international phase, with all subsequent claims renumbered; however, this claim was not present in the application as filed. It is suggested that to avoid further confusion, all claims (1-18) be canceled and replaced with a new set of claims beginning with claim 19. This office action will use the numbering as indicated in the Preliminary Amendment to avoid confusion, with the expectation that a clean, renumbered (beginning with 19) set of claims will be provided.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 6, 7, and 11-17 are rejected under 35 U.S.C. 102(a) and (b) as being anticipated by Burns et al (EP 0 375 624).

Burns et al teach the utility of applicants' JEFFAMINE 230 surfactant (compound II; Example IV, p. 6-7) in herbicidal compositions which may have glyphosate, among other herbicides, as the active agent (p. 3, lines 2-8).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Burns et al, Cutler et al (US 6,117,820), and Huntsman<sup>1</sup>.

Burns et al has been discussed above and teaches the utility of one of the JEFFAMINE<sup>®</sup> surfactants (D230) in herbicidal compositions.

Cutler et al teaches herbicidal compositions comprising glyphosate, fomesafen, glufosinate, paraquat, or bentazone, in combination with an alkoxylated surfactant, an alkylpolyglycoside (col 5, lines 1-34), and a co-surfactant (abstract). Ethoxylated amines are listed among the possible cationic surfactants (col 5, lines 54-55).

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<sup>1</sup>Huntsman. Technical Bulletin: The JEFFAMINE<sup>®</sup> polyoxyalkyleneamines. P. 1-6. 1987.

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Huntsman teaches that the JEFFAMINE® surfactants are known.


One of ordinary skill in the art would be motivated to combine these references because they disclose alkoxyated amine surfactants which are useful in agrochemical compositions.

Thus it would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to have combined applicants' alkoxyated amine surfactants with glyphosate, fomesafen, or paraquat, and optionally with an alkylpolyglycoside, because Cutler et al teaches that each of these components may be useful in a single composition, and because Burns et al teaches the example of one of the specific polyalkoxyated amines in herbicidal compositions. One of ordinary skill in the art would expect other polyalkoxyated amine surfactants to have utility in herbicidal compositions.

No unobvious or unexpected results are noted; no claim is allowed.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103c and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Mark Clardy whose telephone number is (703) 308-4550.

  
S. Mark Clardy  
Primary Examiner  
AU 1616

June 20, 2003